



FEDERAL ELECTION COMMISSION  
Washington, DC 20463

Megan Sowards Newton, Esq.  
Jones Day  
51 Louisiana Avenue, NW  
Washington, DC 20001

MAR 13 2018

RE: MUR 7119  
Donald J. Trump  
Donald J. Trump for President, Inc.  
and Timothy Jost in his official  
capacity as treasurer

Dear Ms. Newton:

On August 11, 2016, the Federal Election Commission ("Commission") notified your clients Donald J. Trump for President, Inc. and Timothy Jost in his official capacity as treasurer ("the Committee"), and Donald J. Trump of a complaint alleging that your clients violated 52 U.S.C. § 30116(f), a provision of the Federal Election Campaign Act of 1971, as amended ("Act").

After reviewing the information provided in the complaint, your clients' responses, and publicly available information, the Commission found on March 6, 2018, that there is no reason to believe Donald J. Trump and the Committee violated 52 U.S.C. § 30116(f). Accordingly, the Commission closed its file in this matter as it pertains to Donald J. Trump and the Committee. The Factual and Legal Analysis, which provides the basis for the Commission's findings, is enclosed.

The Commission reminds your clients that the confidentiality provisions of 52 U.S.C. § 30109(a)(12)(A) remain in effect, and that this matter is still open with respect to other respondents. The Commission will notify you when the entire file has been closed.

If you have any questions, please contact Saurav Ghosh, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Shonkwiler", with a long horizontal line extending to the right.

Mark Shonkwiler  
Assistant General Counsel

Enclosure  
Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 RESPONDENTS: Donald J. Trump MUR 7119  
4 Donald J. Trump for President, Inc.  
5 and Timothy Jost in his official capacity  
6 as treasurer  
7

8 **I. INTRODUCTION**

9 This matter was generated by a complaint filed with the Federal Election Commission  
10 ("Commission") by the American Democracy Legal Fund. *See* 52 U.S.C. § 30109(a)(1).  
11 Complainant alleges, among other things, that Americans for Liberty and Free Enterprise  
12 ("ALFE"), an independent-expenditure-only political committee, coordinated with and thereby  
13 contributed to Donald J. Trump's authorized presidential campaign committee, Donald J. Trump  
14 for President, Inc. (the "Trump Committee"), by paying for a campaign rally that featured a  
15 purported Trump Committee campaign staffer as a speaker. The Trump Committee denies that  
16 the event was coordinated with the Trump Committee and denies that a Trump Committee  
17 campaign staffer spoke at the event.

18 The available record provides insufficient factual support for the allegation that ALFE  
19 coordinated with the Trump Committee as alleged. Accordingly, the Commission finds no  
20 reason to believe that Donald J. Trump, Donald J. Trump for President, Inc. and Timothy Jost in  
21 his official capacity as treasurer violated 52 U.S.C. § 30116(f) by knowingly accepting  
22 prohibited or excessive in-kind contributions in the form of coordinated expenditures.

23 **II. FACTUAL AND LEGAL ANALYSIS**

24 **a. Background**

25 ALFE filed a Statement of Organization with the Commission as an independent-  
26 expenditure-only political committee that was dated June 2, 2015, but was received on

1 November 3, 2015. Its treasurer of record is Gary F. Fox II. Donald J. Trump was a 2016  
2 candidate for President of the United States. His authorized committee filed a statement of  
3 organization with the Commission on June 29, 2015. Its treasurer of record is Timothy Jost.

4 The Complaint, citing local news articles, alleges that ALFE coordinated with and  
5 thereby made prohibited in-kind contributions to the Trump Committee by (1) paying expenses  
6 resulting from an event held in Loudoun County, Virginia, on July 6, 2016, and (2) featuring a  
7 “Trump for President campaign staffer” named “Juli Haller” as a speaker at that event.<sup>1</sup>

8 The Trump Committee argues that the Complaint fails to provide sufficient factual  
9 support for the coordination allegations.<sup>2</sup> It points out that the event in question was organized  
10 by ALFE, not the Trump Committee, and that the speaker in question, Juli Haller, was not a paid  
11 campaign staffer or otherwise an agent of the Trump Committee.<sup>3</sup> The Trump Committee asserts  
12 that Haller spoke at the event as a Trump supporter who may have been a volunteer for the  
13 campaign. Moreover, the Trump Committee argues that even if a paid campaign staffer had  
14 spoken at an event paid for by a Super PAC, that would not satisfy the “conduct prong” of the  
15 Commission’s coordination regulations, *i.e.*, it would not constitute prohibited “coordination”  
16 between the campaign and the Super PAC.<sup>4</sup>

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<sup>1</sup> Compl. at 2, 3 (Aug. 4, 2016) (citing Norman K. Styer, “Trump Supporters Gear Up for Loudoun Campaign,” Loudoun Now (July 7, 2016) <http://loudounnow.com/2016/07/07/trump-supporters-gear-up-loudoun-campaign>; Hannah Dellinger, “Loudoun Republican leaders to host Trump ‘Unity Rally’ in Leesburg,” Loudoun Times-Mirror (July 6, 2016)).

<sup>2</sup> Trump Cmte. Resp. at 2 (Sept. 27, 2016).

<sup>3</sup> *Id.* at 3.

<sup>4</sup> *Id.* at 4.

**b. Coordinated Expenditures**

**i. Legal Standard**

The Federal Election Campaign Act of 1971, as amended (“Act”), provides that a contribution includes “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.”<sup>5</sup> The Act defines an expenditure as “any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office.”<sup>6</sup> “Anything of value” in either context includes all in-kind contributions.<sup>7</sup> An expenditure is “coordinated” if it is “made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate [or] the candidate’s authorized committee.”<sup>8</sup> Any coordinated expenditure constitutes an in-kind contribution to the federal candidate or committee with whom, or with which, it is coordinated.<sup>9</sup>

Independent-expenditure-only political committees are permitted to solicit and raise unlimited contributions, and can receive contributions from corporations and labor unions, *i.e.*, they may solicit and receive funds outside the Act’s limitations and source prohibitions.<sup>10</sup> As

<sup>5</sup> 52 U.S.C. § 30101(8)(A)(i).

<sup>6</sup> 52 U.S.C. § 30101(9)(A)(i).

<sup>7</sup> 11 C.F.R. §§ 100.52(d)(1), 100.111(e)(1).

<sup>8</sup> 11 C.F.R. § 109.20(a); *see also* 52 U.S.C. § 30101(17) (“The term ‘independent expenditure’ means an expenditure . . . (B) that is not made in concert or cooperation with or at the request or suggestion of such candidate, the candidate’s authorized political committee, or their agents, or a political party committee or its agents.”).

<sup>9</sup> 11 C.F.R. § 109.20(b) and 109.21.

<sup>10</sup> *See Citizens United v. FEC*, 558 U.S. 310 (2010); *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010); Advisory Op. 2010-11 (Commonsense Ten) (July 22, 2010); *see also* 52 U.S.C. §§ 30116(a)(1), 30118(a).

1 such, however, they may not make any contributions directly to candidates, including in-kind  
2 contributions via coordinated expenditures.<sup>11</sup>

3 ii. The Available Record Does Not Support Reason To Believe that ALFE  
4 Coordinated with the Trump Committee

5 Complainant alleges that ALFE coordinated with the Trump Committee when it  
6 “sponsored a Trump for President campaign unity rally that included speeches from Juli Haller, a  
7 Trump for President campaign staffer.”<sup>12</sup> The available record does not support the allegation  
8 that ALFE impermissibly coordinated with the Trump Committee with regard to the event.

9 The Trump Committee maintains that the event was sponsored by ALFE, and not by the  
10 Trump Committee.<sup>13</sup> Indeed, ALFE featured a flier on its website that indicates the event was  
11 sponsored by ALFE.<sup>14</sup> One of the news articles cited in the Complaint called the event a “Trump  
12 unity rally” but clarified that “[t]he event was organized by [ALFE], a PAC that aims to  
13 reconnect the Republican Party to urban voters.”<sup>15</sup> Another article also referred to the event as  
14 an ALFE event.<sup>16</sup> The event was held at a restaurant owned by Bryan Crosswhite, the Executive  
15 Vice President of ALFE, and ALFE President Kenn Blanchard addressed the gathering via  
16 FaceTime video.<sup>17</sup> In addition, the Trump Committee specifically denies the assertion that it was

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<sup>11</sup> See 52 U.S.C. §§ 30116(a)(1), 30116(f), 30118(a); *Commonsense Ten* at 2-3.

<sup>12</sup> Compl. at 2.

<sup>13</sup> Trump Cmte. Resp. at 3. Another news article’s title described the “unity rally” as an event being hosted by “Loudoun [County] Republican leaders.” Dellinger, *supra*.

<sup>14</sup> “NORTHERN VA UNITE RALLY – WEDNESDAY, JULY 6TH AT 7PM!” <http://www.alfepac.org/2016/06/08/restoring-american-values> (viewed Dec. 5, 2016).

<sup>15</sup> See Styer, *supra*.

<sup>16</sup> See Sydney Kashigawi, “GOP super PAC urges on-the-fence voters to support Trump,” Loudoun Times-Mirror (July 6, 2016), [http://www.loudountimes.com/news/article/gop\\_super\\_pac\\_urges\\_on\\_the\\_fence\\_republicans\\_to\\_join\\_their\\_cause\\_support456](http://www.loudountimes.com/news/article/gop_super_pac_urges_on_the_fence_republicans_to_join_their_cause_support456).

<sup>17</sup> Styer, *supra*.

1 a Trump campaign event, stating that “[i]t appears from the reports [cited in the complaint] that  
2 the event was a gathering of about 30 people at the restaurant owned by the Super PAC vice  
3 president.”<sup>18</sup>

4 Moreover, the available facts show only that a person associated with the Trump  
5 Committee, Juli Haller, attended and spoke at an ALFE event, and that does not demonstrate  
6 impermissible “coordination” between ALFE and the Trump Committee. The ALFE flier for the  
7 event features Haller’s image under “Speakers” with the caption “Juli Haller / Trump 2016.”  
8 Various news articles also associated Haller with the campaign, but stopped short of identifying  
9 her with any official role or title: one article referred to her as “Trump campaign representative  
10 Juli Haller” while the other called her “Juli Haller with the Trump campaign.”<sup>19</sup> Nevertheless,  
11 the Trump Committee asserts that Haller “is not a campaign staffer, is not on campaign payroll,  
12 and is not an agent of the campaign.”<sup>20</sup> Nothing in the available record undermines that  
13 assertion, and Haller’s mere appearance at the event does not constitute “coordination” for the  
14 purposes of the Act.<sup>21</sup>

15 Finally, there is no evidence that the Trump Committee requested or suggested that  
16 ALFE sponsor the event, or that ALFE was acting in cooperation, consultation, or concert with  
17 the Trump Committee with regard to the event. Therefore, the available record does not support  
18 the allegation that ALFE coordinated the event with the Trump Committee. Accordingly, the  
19 Commission finds no reason to believe that Donald J. Trump, Donald J. Trump for President,

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<sup>18</sup> Trump Cmte. Resp. at 3.

<sup>19</sup> Styer, *supra*; Kashigawi, *supra*.

<sup>20</sup> Trump Cmte. Resp. at 3.

<sup>21</sup> See 11 C.F.R. § 109.20(a).

- 1 Inc. and Timothy Jost in his official capacity as treasurer violated 52 U.S.C. § 30116(f) by
- 2 knowingly accepting prohibited or excessive in-kind contributions.